IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.54 OF 2006
AND
CRIMINAL WRIT PETITION NO.55 OF 2006

Sau. Sujata Randeep More ...Petitioner
(In both the Petitions)

Vs.

Parshavnath Co-operative Bnk. Ltd.
and Anr. ...Respondents
(In both the Petitions)

Shri Umesh Mankapure for the Petitioner in both the Petitions.

Shri S.S.Patwardhan for the Respondent No.1 in both the Petitions.

Shri Y.M.Nakhwa, A.P.P for the State in both the Petitions.

CORAM : A. S. OKA, J.
DATE : OCTOBER 09, 2006.

JUDGMENT:

1. Notice for final disposal is already issued by the earlier court. Heard the Advocates appearing for the parties. For the sake of convenience, a reference is made to the facts of the case in Writ Petition No.54 of 2006. The Petitioner is arraigned as an accused in a complaint filed by the first Respondent under section 138 of the Negotiable Instruments Act, 1881. A Revision Application was filed by the petitioner for challenging the order issuing process. There was a delay of about ten months in filing the revision

Application. By the impugned order, Application for condonation of delay has been rejected.

2. The learned Advocate appearing for the Petitioner submitted that summons was served in October 2004 and the revision Application was filed on 02nd December, 2004. He submitted that the reasons for delay are set out in the Application and it is stated that till October 2004, the summons was not served and therefore, the Petitioner was not aware about the complaint. Shri Patwardhan appearing for the first Respondent submitted that the revisional court has recorded a finding that summons was served immediately. He submitted that no interference was called for.

3. I have considered the submissions. A specific averment has been made in the Application for condonation of delay that at the end of month of October 2004, the Petitioner was served with the summons. The revisional court merely observed that the Petitioner being Director of the first Respondent-Bank had given the address of the bank as her address of place of residence and the summons was served to the Bank immediately.

4. There is no finding recorded that the summons addressed to the Petitioner was served any time prior to October 2004. If no such finding is recorded, it is obvious that for the purpose of hearing of the Application for condonation of delay, the court ought to have accepted that the summons was served in October 2004. Revision Application has been filed on 02nd December, 2004 after obtaining certified copies of the relevant documents.

5. A liberal approach is contemplated while dealing with an application for condonation of delay. Considering assertions made in Application for condonation of delay, sufficient cause was made out for condonation of delay. Hence, the impugned orders dated 30th June, 2005 are quashed and set aside.

6. Hence, I pass the following order:

(i) The impugned orders dated 30th June, 2005 are quashed and set aside. Delay in filing revision Applications is condoned.

(ii) The Sessions Court shall register the revision Applications and shall hear and decide the same

in accordance with law.

(iii) All contentions of the parties in the pending revision Applications are expressly kept open.

JUDGE